

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Santa Clara Valley
Transportation Authority for an order approving
safety appliances to be used at the at-grade
crossings of Sunol Street (82D-4.1) and
Auzerais Avenue (82D-4.2) by the light rail
transit line of the Vasona Light Rail Project in the
City of San Jose, County of San Clara.

Application 02-01-031
(Filed January 28, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON PRESENTATION OF ISSUES**

Background

This application seeks Commission approval for crossing protection planned by the applicant, Santa Clara Valley Transportation Authority (SCVTA), at two closely-spaced crossings in San Jose. These crossing are part of the Vasona Light Rail Project being constructed by SCVTA. The Administrative Law Judge (ALJ) held a status conference by telephone in this matter on January 15, 2004 to clarify the manner of submitting testimony and raising legal issues prior to the evidentiary hearing (EH) scheduled for February 9, 2004.

Discussion

The protestant, Floor Service Supply Company (FSSC), filed an Evidentiary Hearing Statement (EH Statement) on January 7, 2004. The EH Statement combined what was intended to be testimony for the EH with legal argument about the application of the California Environmental Quality Act, Pub. Res. Code § 21000 *et seq.* (CEQA), in this proceeding. After discussion with

counsel for the parties, the ALJ determined that the proposed testimony should be removed from the EH Statement and separately distributed, in accordance with Rule 68 of the Commission's Rules of Practice and Procedure. In response to the request of counsel for SCVTA, FSSC agreed to provide citations to the complete documents from which excerpts had been attached to the testimony, but would otherwise leave the content of the testimony to be distributed unchanged from that in the EH Statement.

Counsel also agreed that the CEQA argument in the EH Statement should be presented by separate motion, as was contemplated in the Scoping Memo for this proceeding. A briefing schedule for the CEQA motion will be set at the EH.

IT IS RULED that:

1. Floor Service Supply Company (FSSC) shall distribute its prepared testimony in compliance with this Ruling by January 21, 2004.
2. FSSC shall file and serve its CEQA motion no later than the final day of the EH.
3. A briefing schedule for the CEQA motion will be set at the conclusion of the EH.
4. In all other respects, the schedule for this proceeding is unchanged.

Dated January 30, 2004, at San Francisco, California.

/s/ Anne E. Simon

Anne E. Simon
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling on Presentation of Issues on all parties of record in this proceeding or their attorneys of record.

Dated January 30, 2004, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

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